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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,972	05/25/2001	Dan Stanek	0112690-045	3436

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EXAMINER

VORTMAN, ANATOLY

ART UNIT	PAPER NUMBER
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2835

DATE MAILED: 11/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/864,972

Applicant(s)

STANEK ET AL.

Examiner

Anatoly Vortman

Art Unit

2835

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2003 (RCE and amendment).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-26 is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 5) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 6) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/14/03 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 12-18, are rejected under 35 U.S.C. 102(b) as being anticipated by US/ 2,809,254 to Edsall.

Regarding claim 1, Edsall disclosed (Fig. 6) a diagnostic blown fuse indicator for a fuse having connected in series a short circuit element (A) and a current overload element (B), comprising: a short circuit indicator (40) electrically communicating in parallel with the short

circuit element (A), wherein the short circuit indicator (40) provides visual indication of a short circuit condition;

a current overload indicator (41) electrically communicating in parallel with the current overload element (B), wherein the current overload indicator (41) provides visual indication of an overload condition (column 5, lines 14+).

The functional recitation: "configured and arranged to be inserted together into a protective housing and be electrically connected thereafter to at least one conductive end of the housing" has not been given patentable weight because it is narrative in form. In order to be given patentable weight, a functional recitation must be expressed as a "means" for performing the specified function, as set forth in 35 USC § 112, 6th paragraph, or must be supported by recitation in the claim of sufficient structure to warrant the presence of the functional language. *In re Fuller*, 1929 C.D. 172; 388 O.G. 279. In the instant case a housing having a conductive end has not been positively set forth in the claim as the structural component of the claimed device.

Regarding claims 12-15, Edsall disclosed a fuse having connected in series a short circuit element (A) and a current overload element (B), comprising: a short circuit indicator (40) and a current overload indicator (41) connected in parallel to said short circuit element (A) and said current overload element (B) respectively, and also connected electrically via a same conductor (common electrical lead) to a point (52) (conductor (52) and connections of indicators (40, 41) to said conductor (52) constitute the same conductor or a common electrical lead (in electrical sense), since all represent a point of equal electrical potential) between a high electrical resistance area of the short circuit element (A) and the current overload element (B).

Regarding claim 16, Edsall disclosed (Fig. 1), that the overload element includes a solder (13) in electrical communication with the short circuit element.

Regarding claim 17, Edsall disclosed that the short circuit element (18) define slots (Fig. 1a).

Regarding claim 18, Edsall disclosed that said short and overload circuit indicators electrically communicate with end caps of the fuse (Fig. 1 and 2 of US/2,794,095 to Kozacka, which is incorporated by reference in the disclosure of Edsall (see Edsall, column 5, lines 28+)).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-11 and 19-22, are rejected under 35 U.S.C. 103(a) as being unpatentable over US/2,809,254 to Edsall in view of the Admitted Prior Art (disclosure of the instant application).

Regarding claims 2-11 and 19-22, Edsall disclosed all of the claims limitations as apply to claims 1 and 12, respectively, and further that said short and overload indicators (40, 41) may be of any conventional design (column 5, lines 18+), but did not specify that said indicators are: indicators having transparent lenses, indicators coated with vaporizable chemical composition, indicators having a gun cotton and an igniter wire, indicators comprising LED's, or indicators having labels with conductive and temperature responsive layers.

The Applicant has admitted (disclosure of the instant application, p. 2, lines 3-30 and p. 3, lines 1-21), that all of the aforementioned fuse indicators have been known in the fuse art at the time the invention was made.

It would have been obvious to a person of ordinary skill in the fuse art at the time the invention was made to substitute fault indicators of Edsall with any of the aforementioned known fault indicators as taught by the Applicant's Admitted Prior Art (Applicant's disclosure (p. 2, lines 3-30 and p. 3, lines 1-21)), in order to adapt said fuse of Edsall for a particular specific application.

Allowable Subject Matter

6. Claims 23-26 are allowed.
7. The following is a statement of reasons for the indication of allowable subject matter:
regarding claims 23-26, independent claims 23 and 26 recite: "a single rigid body...fixed to conductive end caps that are exposed and configured to be fitted to mating connectors, (ii) the elements and indicators communicate electrically with the end caps, and (iii) the body defines at least one opening sized and shaped for a person to view both indicators located within".

The aforementioned limitations in combination with all remaining limitations of claims 23 and 26, respectively, are believed to render said claims 23 and 26, and subsequently dependent claims 24 and 25 allowable over the art of record.

Response to Arguments

8. Applicant's arguments filed on 10/14/03 regarding claims 1-22 have been fully considered but they are not persuasive, since claims as amended read on the applied references as shown by the rejection above.

Regarding claims 23-26, the arguments are moot, due to the allowance of the claims.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anatoly Vortman whose telephone number is 703-308-7824. The examiner can normally be reached on Monday-Friday, between 9:30am and 6:00 pm..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Darren Schuberg can be reached on 703-308-4815. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3431.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1782.

A.V.



Anatoly Vortman
Primary Examiner
Art Unit 2835